

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

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|---------------------------|---|-------------------------------|
| TODD JEFFERY GATES, | : | |
| Petitioner, | : | |
| | : | CIVIL ACTION 12-0330-KD-M |
| v. | : | |
| | : | CRIMINAL ACTION 10-00026-KD-M |
| UNITED STATES OF AMERICA, | : | |
| Respondent. | : | |

ORDER

After due and proper consideration of all pleadings in this file, and a *de novo* determination of those portions of the Recommendation to which objection is made, the Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b) (1) (B) is adopted as the opinion of this Court.

It is **ORDERED** that Respondent's Motion to Dismiss (Doc. 102) be **GRANTED**, that Petitioner's Motion to Vacate (Doc. 98) be **DENIED**, and that this action be **DISMISSED**. It is further **ORDERED** that, if Petitioner files a certificate of appealability, then it is **DENIED** as he is not entitled to appeal *in forma pauperis*.

DONE this 21st day of September, 2012.

s/ Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT JUDGE